

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
HARRISONBURG (STAUNTON) DIVISION**

In re:

**CLIFTON CURTIS CLEMENTS
CHRISTINE MARIE CLEMENTS,**

CHAPTER 7

Debtors.

CASE NO. 08-51006-RWK-7

**BAC HOME LOANS SERVICING, L.P.,
FKA COUNTRYWIDE HOME LOANS
SERVICING, L.P., AS SERVICER FOR
WELLS FARGO BANK, NATIONAL
ASSOCIATION AS TRUSTEE FOR
SECURITIZED ASSET BACKED
RECEIVABLES LLC 2005-FR5
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2005-FR5,**

Plaintiff.

vs.

**CLIFTON CURTIS CLEMENTS
AKA CLIFTON C. CLEMENTS
CHRISTINE MARIE CLEMENTS
AKA CHRISTINE M. CLEMENTS
GEORGE I. VOGEL, TRUSTEE,**

Defendants.

**MOTION FOR RELIEF
AND NOTICE OF HEARING**

NOTICE

YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY. IF YOU HAVE ONE IN THIS BANKRUPTCY CASE, (IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.)

IF YOU DO NOT WISH THE COURT TO GRANT THE RELIEF SOUGHT IN THE MOTION, OR IF YOU WANT THE COURT TO CONSIDER YOUR VIEWS ON THE MOTION, THEN WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE OF THIS MOTION, YOU MUST FILE A WRITTEN RESPONSE EXPLAINING YOUR POSITION WITH THE COURT AND SERVE A COPY ON THE MOVANT. UNLESS A WRITTEN RESPONSE IS FILED AND SERVED WITHIN THIS FOURTEEN (14) DAY PERIOD, THE COURT MAY DEEM OPPOSITION WAIVED, TREAT THE MOTION AS CONCEDED, AND ISSUE AN ORDER GRANTING THE REQUESTED RELIEF WITHOUT FURTHER NOTICE OR HEARING.

IF YOU MAIL YOUR RESPONSE TO THE COURT FOR FILING, YOU MUST MAIL IT EARLY ENOUGH SO THE COURT WILL RECEIVE IT ON OR BEFORE THE EXPIRATION OF THE FOURTEEN (14) DAY PERIOD.

ATTEND THE PRELIMINARY HEARING SCHEDULED TO BE HELD ON JULY 7, 2010 AT 2:00 PM IN THE U.S. COURTHOUSE, FEDERAL COURTROOM, 3RD FLOOR, 116 N. MAIN STREET, HARRISONBURG, VA 22802.

NOTICE FROM SAMUEL I. WHITE, P.C.

PURSUANT TO THE FEDERAL FAIR DEBT COLLECTION PRACTICES ACT, WE ADVISE YOU THAT SAMUEL I. WHITE, P.C., COUNSEL FOR THE PLAINTIFF, IS A DEBT COLLECTOR, ATTEMPTING TO COLLECT THE INDEBTEDNESS REFERRED TO HEREIN, AND ANY INFORMATION WE OBTAIN FROM YOU WILL BE USED FOR THAT PURPOSE.

MOTION FOR RELIEF

The Motion of BAC Home Loans Servicing, L.P., fka Countrywide Home Loans Servicing, L.P., as Servicer for Wells Fargo Bank, National Association as Trustee for Securitized Asset Backed Receivables LLC 2005-FR5 Mortgage Pass-Through Certificates, Series 2005-FR5, by Counsel, hereby moves the Court for relief from the automatic stay and in support thereof represents unto the Court:

1. This Court has Jurisdiction over this proceeding pursuant to 28 U. S. C. Sections 157 and 1334 and 11 U. S. C. 362 (d), and that this matter is a core proceeding.
2. The Debtors filed a Petition under Chapter 13 of the Bankruptcy Code on September 29, 2008. The case was converted to a proceeding under Chapter 7 of the bankruptcy code on April 26, 2010.
3. The Debtors are the owners of the real property located at 199 Arrowhead Lane, Stuarts Draft, VA 24477, which property is described as:

All that certain lot or parcel of land, together with all buildings and improvements thereon, rights, privileges and appurtenances thereunto belonging or in anywise appertaining, lying and being in the South River District of Augusta County, Virginia, described and designated as Lot Two Hundred Forty Four (244), Forest Springs Estate, Section 17, as shown on "Final Plat of Forest Springs Estate, Section 17, South River District, Augusta County, Virginia," dated November 30, 2000, made by Barry E. Lotts, P.C., recorded in the Clerk's Office of the Circuit Court of Augusta County, Virginia, in Plat Book 1, pages 4635-4638; and being a portion of the property conveyed to Rutherford Construction, Inc., a Virginia corporation, by deed from A. Troy Rutherford and Pamela I. Rutherford, husband and wife, dated June 9, 1999, and recorded in the aforesaid Clerk's Office in Deed Book, 1526 page 836.

**The improvements thereon being known as 199 Arrowhead Lane, Stuarts Draft, VA 24477.
Tax ID # 084E-(18)-244**

4. Upon information and belief, Plaintiff is the holder and/or servicer of a certain Deed of Trust Note dated June 8, 2005, which Note is secured by a Deed of Trust of even date therewith and duly recorded.

5. The account is in arrears for 4 monthly mortgage installments. The approximate reinstatement amount through June 18, 2010 is \$7,638.64, calculated as follows:

4 monthly payments (03/01/10-06/01/10) @ \$1,764.39/month	\$7,057.56
Prior Bankruptcy Fees and Costs	775.00
Bankruptcy Fees and Costs - Motion For Relief	650.00
Less Debtors' Suspense	<843.92>
Total	\$7,638.64

6. The unpaid principal balance due on said note is \$200,068.68, and the present approximate payoff balance is \$206,750.00.

7. It is the opinion of the Plaintiff that the Debtors are financially unable to maintain said obligation and that Plaintiff will suffer irreparable injury, loss and damage if it is not permitted to foreclose upon its security interest; otherwise Plaintiff is without adequate protection.

WHEREFORE, Plaintiff prays that it be granted relief from the provisions of the automatic stay with regard to the said real property in order to pursue its rights pursuant to the terms of the Note and Deed of Trust, to include the institution of foreclosure proceedings, and further requests that the fourteen (14) day stay be waived incident to any Order entered incident to the Motion for Relief herein.

BAC HOME LOANS SERVICING, L.P., FKA
COUNTRYWIDE HOME LOANS SERVICING, L.P.,
AS SERVICER FOR WELLS FARGO BANK,
NATIONAL ASSOCIATION AS TRUSTEE FOR
SECURITIZED ASSET BACKED RECEIVABLES
LLC 2005-FR5 MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2005-FR5

By: **/s/ ERIC DAVID WHITE**

Of Counsel
Samuel I. White, P. C.
Eric David White, Esquire, VSBN 21346
Michael T. Freeman, Esquire, VSBN 65460
1804 Staples Mill Road, Suite 200
Richmond, VA 23230

CERTIFICATE

I hereby certify that a true copy of the foregoing Motion and Notice of Hearing was served by regular mail or email this 18th day of June, 2010, on all necessary parties including George I. Vogel, Esquire, Trustee, P.O. Box 18188, Roanoke, VA 24014; Roland S. Carlton, Jr., Esquire, Counsel for Debtors, 118 MacTanly Place, Staunton, VA 24401; and Clifton Curtis Clements and Christine Marie Clements, Debtors, 199 Arrowhead Lane, Stuarts Draft, VA 24477.

/s/ ERIC DAVID WHITE
Samuel I. White, P. C.